

SENATE BILL NO. 75

INTRODUCED BY STAPLETON

BY REQUEST OF THE DEPARTMENT OF MILITARY AFFAIRS

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE MONTANA NATIONAL GUARD CIVIL RELIEF ACT; DEFINING TERMS; AUTHORIZING COURTS TO PROVIDE CERTAIN NATIONAL GUARD SERVICE MEMBERS RELIEF FROM CERTAIN CIVIL ACTIONS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Short title.** [Sections 1 through 4] may be cited as the "Montana National Guard Civil Relief Act".

NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 4], the following definitions apply:

(1) "Active duty" means at least 30 consecutive days of full-time state active duty ordered by the governor pursuant to Article VI, section 13, of the Montana constitution or of full-time national guard duty, as defined in 32 U.S.C. 101.

(2) "Dependent" means the spouse or minor child of a service member or any other person legally dependent on the service member for support.

(3) "Military service" means active duty with a Montana army or air national guard military unit.

(4) "Service member" means any member of the Montana army or air national guard serving on active duty.

NEW SECTION. **Section 3. Relief from actions related to mortgage, lease, or rental payments.**

(1) A civil action, as described in Title 25, chapter 1, part 1, ~~to evict or penalize~~ AGAINST a service member or a service member's dependent with respect to the member's or dependent's primary residence for nonpayment on a mortgage, lease, or rental agreement may be stayed by a court, or the payments due may be adjusted.

(2) With respect to an action described in subsection (1), upon application or by its own action, a court

1 may do one or more of the following:

2 (a) stay the action for up to 3 months unless, in the opinion of the court, the ability of the service
3 member or the service member's dependent to make the required payments is not materially affected by the
4 service member's active duty; or

5 (b) adjust the mortgage, lease, or rental payment to be made by an amount the court determines to be
6 reasonable, taking into consideration the service member's active duty status; or

7 (c) order the service member or the service member's dependent to pay an amount specified by the
8 court over the time period specified by the court upon the service member's release from active duty.

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10 **NEW SECTION. Section 4. General relief from court actions.** If a plaintiff or a defendant in any civil
11 action, as described in Title 25, chapter 1, part 1, is a service member, the court may stay the proceedings if the
12 service member or other person on the service member's behalf makes a request in writing to the court, unless
13 the court determines on the record that the ability of the service member to pursue an action as a plaintiff or to
14 conduct the defense as a defendant is not materially affected by the service member's military service.

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16 **NEW SECTION. Section 5. Codification instruction.** [Sections 1 through 4] are intended to be
17 codified as an integral part of Title 10, chapter 1, and the provisions of Title 10, chapter 1, apply to [sections 1
18 through 4].

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20 **NEW SECTION. Section 6. Saving clause.** [This act] does not affect rights and duties that matured,
21 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

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23 **NEW SECTION. Section 7. Effective date.** [This act] is effective on passage and approval.

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